Rural Payments Agency

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21 August 2017
Ref: RFI 4569

Dear [redacted]

Re: Freedom of Information Act 2000 – Information Request

Thank you for your request for information dated 26 July 2017, which we have dealt with under the Freedom of Information Act 2000 (FOI).

You have asked a number of questions relating to the RPA's olive oil testing programme which have been set out below alongside our response to each question.

1. **How many tests were conducted during the two year programme?**

3,634 tests were conducted in 2015 and 2016.

2. **How many samples of olive oil were tested and from which countries of origin did the olive oil come.**

A total of 131 samples were taken. These comprised:
- extra virgin/virgin olive oil;
- olive oil composed of refined olive oils and virgin olive oils; and
- olive pomace oil.

There are 29 separate test results generated for each sample of extra virgin olive oil and 24 separate tests for each sample of olive oil composed of refined olive oils or olive pomace oil.

The origin of the olive oil is only known for 98 samples as it is only permitted on labels for extra virgin and virgin olive oil. Article 4 of Commission Implementing Regulation 29/2012 requires the labelling of extra virgin and virgin olive oils to show a designation of origin (reference to a geographical area). It also asserts that the labelling of 'olive oil composed of refined olive oils and virgin olive oils' and 'olive-pomace oil' must not show a designation of origin. Therefore the origin of these oils sampled at retailers is unknown.

Please find attached a spreadsheet which includes a breakdown of samples by origin and year.

Oils were assessed against the chemical and organoleptic parameters prescribed by Commission Regulation 2568/1991 as amended. The precise test requirements and

specification limits vary according to product type. For example, the requirement for organoleptic assessment is confined to extra virgin and virgin olive oils only.

3. **How many of the samples tested were**
    a. **Genuine?**
    b. **Fake?**
    c. **Unable to ascertain whether product was genuine or fake?**

4. **If any products were found to be fake, please provide the brand name of the olive oil and country of origin.**

5. **What action was taken as a result of any fake or suspected fake samples.**

The RPA assesses whether samples meet regulatory quality standards, rather than whether they are genuine or fake. Out of 131 samples tested in the last two calendar years, 43 were not compliant with one or more chemical or organoleptic parameters.

Non-compliance with regulatory quality standards may be due adulteration but can also stem from deterioration during storage (exposure to heat and/or light) that may not be the fault of the trader's supplier. Therefore the use of the terms 'genuine' and 'fake' to distinguish oils may not be appropriate in this context.

Any traders that do not meet the requirements of the regulations in terms of quality, labelling or record-keeping are issued with a Compliance Notice. Failure to comply with a Compliance Notice is an offence under the Olive Oil (Marketing Standards) Regulations 2014 (Statutory Instrument 2014 No. 195).

To avoid impeding the control process or placing traders at an unfair disadvantage it would not be appropriate to disclose details of products or brands that may be subject to further investigation or where remedial action is ongoing or has taken place.

Therefore the RPA can advise that we are unable to provide details of brands as stated above, as this information is considered commercial in confidence and we are satisfied that the disclosure of this information would damage the commercial interests of the persons concerned.

Section 43(2) of the FOI provides an exemption to the right to know if the release of the information is likely to prejudice the commercial interests of any person (a person may be an individual, a company, the public authority itself or any other legal entity).

When considering refusal of a request under section 43(2) FOI we are required to carry out a Public Interest Test. This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information. We must also take into account that under FOI there is a presumption towards disclosure of the information.

We recognise that there is a public interest in information about the activities of regulatory bodies as it is in the public interest to facilitate the accountability and transparency of public authorities for decisions taken by them, and for their spending of public money. Such transparency assists individuals in understanding decisions made by public authorities affecting their lives and, in some cases, in challenging those decisions.

Conversely, there is a strong public interest in refusing disclosure of such information that could allow potential competitors to gain access to a company's commercial information, or the potential to cause a prejudicial impact on the commercial interests of a company, and/or the potential to disadvantage the company's profits. Disclosure also has the potential to infringe the RPA's ability to manage the program effectively and maintain a private thinking space within which officials can discuss and ensures a safe space for officials to debate and reach decisions.

Therefore, we believe there is no valid justification for release and the RPA would not want to place commercially sensitive information in the public domain which would cause harm to the legitimate economic interests of a company.

In this instance, it is our view that the public interest in disclosing the information is outweighed by the public interest in withholding it.

If you are not happy with the way we have handled your request, you can ask for an internal review. These requests should be submitted in writing within two months of the date of receipt of the response to your original request and should be addressed to the Information Rights Team at the Rural Payments Agency, North Gate House, 21-23 Valpy Street, Reading, RG1 1AF or alternatively email your request for a review to irt@rpa.gsi.gov.uk.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted RPA's own complaints procedure. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

Information Rights Team